

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting held in Commissioners Meeting Room,

Third Floor, Historic Court House,

Boonville, IN

Monday, April 10, 2017, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESEN: Guy Gentry, President; Bill Byers, Bob Johnson, Amanda Mosiman, Jeff Valiant and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Molly Barnhill, Staff.

MEMBERS ABSENT: David Hachmeister

MINUTES: Upon a motion by Jeff Valiant and seconded by Jeff Willis, the Minutes from the last regular meeting held March 13, 2017, were approved as circulated.

The President explained the Rules of Procedure to the audience.

SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:

PP-17-03 – Water’s Edge Subdivision Sec. V by Jeffrey W. & Sarah B. Claycomb. 10.676 acres located on the W side of Asbury Cemetery Rd. 0’ N of the intersection formed by Welte Rd (N 300) & Asbury Cemetery Rd.(W 950) being a replat of Lot 71 Water’s Edge Sub. Sec. III, Campbell Twp. *Advertised in the Standard March 2, 2017. Continued from March 13, 2017.*

Don Gries, Easley Engineering was present.

The President called for a staff report.

Mrs. Rector said we do have all return receipts from the adjacent property owners and this time they were mailed out in the 21 day time period. She said that is why it was continued from last month. She said this is just one lot being divided into two; one lot is 7 ½ acres and the other one is 3 acres. She said property is zoned Agriculture which requires 2 ½ acres if you are on septic systems. She said there is no flood plain. She said the Commissioners ruled no additional improvements will be required for Welte Road or Asbury Cemetery Road. She said the Drainage Board ruled that there were no drainage plans required. She said they do have approved septic sites and Elberfeld has lines in place and available for connection and it is a two lot residential subdivision and it is in technical conformity.

The President asked for questions from the Board, remonstrators, and for a motion on the plat.

Bob Johnson made a motion to approve PP-17-03. Jeff Valiant seconded the motion and it was unanimously carried.

PP-17-05 Knight Court by Mystic Development LLC, Michael Morrow, Owner. 5.66 acres located on the W side of Country Place Dr. 0' SW of the intersection of Country Place Dr. and SR 66 also on the E side of Trinity Dr. 0' SE of the intersection of Trinity Dr. and SR 66 . Pt outlot 1 in Rabbit Run Phase 1 as recorded in Doc No. 1995R-001316 in the Warrick County Recorder's Office. Ohio Twp. Complete legal on file. (*Advertised in The Standard March 30, 2017*)

Jim Morley Jr., Project Engineer was present. He said Michael Morrow is present also.

Mrs. Rector stated we have all return receipts from certified mail except for 4 green cards from Betty L. Patton, Sheryl R. Terwiske, Mary F. Schu, and River Valley Homes. She said we do have the white pay receipts showing they were mailed in time and to the correct addresses on file in the Auditors office. She said the zoning on this property is "C-3" Highway Commercial and has been that way for years now. She said there is no flood plain on the property and it is a proposed 3 lot commercial subdivision. She said the Commissioners approved their request for no improvements to Country Place Drive and Trinity Drive. She said there will be 2 commercial entrances; one off of Trinity Drive and a shared entrance for lots 1 & 2 off of Country Place Drive. She said Drainage Board approved their drainage plans. She said we do not have a letter for sewer capacity only because the person that writes those letters, someone in their family passed away and they are not in to write it so they will be getting that to us so approval would be condition on us receiving the capacity letter. She said it should be anytime this week. She said Indiana American has given us a capacity letter for the water. She said as stated this is a 3 lot commercial subdivision with three lots ranging in size from .41 acres to 4.17 acres and it is in technical conformity.

The President asked if he had anything to add to the staff report.

Jim Morley said this is a simple three lot commercial sub.

The President asked for questions from the Board. He said so lot 3 will have entrance off of Trinity and lots 1 and 2 will have a shared entrance off Country Place. Being no questions from the Board the President called for remonstrators.

Darren Lloyd approached the podium. He said he lives in lot 98 of Rabbit Run which is butting up against lot 1 and 2 of the proposed changes. He said he would like to find out some more information about what the plans are for this. He said up until about 8 months ago when they dropped a commercial building across the street from us here he thought that the tree line and that area was his property and he found out that it's not. He said after they made some of the improvements over there his yard was flooded from January until March, actually December until March. He said so there have been changes in this area and he doesn't know what is

happening and until he got this letter they weren't aware of anything that was happening. He said he thought that the area was actually zoned agricultural because that is the way it is listed on the GIS website. He said it was news to him that it was commercial.

Mrs. Rector said it is commercial.

Mr. Lloyd said he found that out because the place where the commercial property was dropped across the street of Country Place is still listed as residential so apparently it is information that hasn't been updated. He asked if there was anything they could do about having some trees left to keep some separation.

The President said that would be something they could ask. He said that was a question he had too; when you drive down SR 66 there's trees on the outside of that waterway and there's trees on the inside of the water. He asked if he knew if there were any plans to leave some of those trees.

Jim Morley Jr. said the final plan has not been established yet but some of those trees will go. He said they have not approved the final plans so he does not know if all of the trees will go or not. He said the drainage plan that was approved earlier today puts a rear yard swale behind all of these people's homes, he thinks it's a 12 foot drainage easement so there is a bit of setback given there. He said relative to his flooding he does not know anything about that. He said all of the drainage for the new building, none of that goes past his house so if there was any flooding there it wouldn't have anything to do with that commercial building. He said that commercial buildings' drainage all runs south down Country Place Drive.

Amanda Mosiman asked if that new commercial building was on that C-3 lot under Mystique Development.

The President said yes.

Amanda Mosiman said you see the 12 foot drainage easements more towards lots 110 thru 106. She said it looks like it cuts down to maybe a 10 foot drainage easement toward 101 but it's so small on the drawing.

Mrs. Rector said the 10 foot easement goes along the whole south property line. She asked if that was going to be a swale.

Jim Morley Jr. said yes it is; that is what the Drainage Board approved. He said the intent is that they don't send any water into Rabbit Run or Country Place.

Mrs. Rector asked if it will all go back into those retention areas that are already there that's taking the water.

Jim Morley Jr. said right; all of our water goes to the existing lake which was an old borrow pit for the highway and it had excess capacity so we are able to take our water there also. He added that was approved earlier today.

Amanda Mosiman said it says on here that that pond is classified as a wetland area with Fish and Wildlife. She asked if there was any input that they would have to have adding drainage to that or is it already draining into it.

Jim Morley Jr. said no it already drains to it.

The President asked if all of the new stuff will drain to the existing drainage pond.

Jim Morley Jr. said yes, it all goes there already.

The President said so in essence you are taking one outlot and creating three lots.

Jim Morley Jr. said yes.

The President said and there will be no return here for anything else if this is approved as far as what's going.

Mrs. Rector said no.

The President asked if there were any other remonstrators present.

Lisa Grant approached the podium. She said her name is Lisa Grant; it is on here as Lisa Lorenz but its lot 100. She asked where the proposed buildings were on the lot.

Amanda Mosiman said right not they are proposing commercial lots. She said we don't know type of buildings would be going in.

Lisa Grant said okay, she has the same kind of concerns as her neighbor because they already have some drainage issues with everything running downhill and it's going to have to be really controlled to stay away from the homes because her neighbors water runs into her yard and she has a sump pump underneath her house so if anything drains towards the houses it's going to cause a big issue. She asked if there will be a road behind the homes between the lakes.

The President said no, lots one and two which is on the side that...the end of lot two almost touches Ms. Grant's property, they will have a shared drive off of that Country Place Drive there.

Amanda Mosiman showed Ms. Grant the entrances on the plat.

Lisa Grant said her concern is drainage with everything.

Mrs. Rector said our attorney can get in on this but you are not allowed to flood anyone out; you have to control it on your own property. She said it can't be any more than what you are getting now.

Lisa Grant said okay and her other concern is commercial real estate just sitting there like the other one is doing right now. She said there is a building there that has been empty for a couple months so that's her other concern having land and commercial real estate just sitting there.

Mrs. Rectors said well as you see down the road it probably is not going to sit empty long.

Lisa Grant said yea probably not too far along.

Darren Lloyd said the only other thing he wanted to address was the drive situation. He said turning into Country Place Drive is a boulevard so depending on how they would put...the boulevard would have to be redone and they have already stated that nothing is going to have to be adjusted on Country Place Drive which would make the corner...I'm really not sure of the logistics of them getting out of them having to turn on Country Place and then do a U-turn which is also a school bus stop. He said it is already a dangerous intersection because people whip into the subdivision around that corner so more commercial traffic and more danger for the kids.

The President asked how that drive will go.

Jim Morley Jr. the proposed shared drive lines up across the street from the existing commercial drive which is on the highway side of the boulevard. He said there is no boulevard right where we access at so there won't be a U-turn or whatever.

The President asked if there were trees in that boulevard and if Bobby was okay with that.

Mrs. Rector said Bobby wasn't here when that was done.

Amanda Mosiman said so the left hand turn will potentially be pretty tricky because it will be pretty short.

The President said so Bobby is okay with that drive being out there on the north so they will be pulling out.

Mrs. Rector said he saw it in site review and approved it and he saw it today.

Jim Morley Jr. said it will go back to the Commissioners for the commercial driveways.

Mrs. Rector said it will just go to Bobby.

Jim Morley Jr. said but doesn't Bobby take it to the Commissioners.

Mrs. Rector said no.

Jim Morley Jr. said it is a very shallow piece of property so we don't have other locations to come out.

Attorney Doll asked if there was room for privacy screening in the back.

Jim Morley Jr. said the challenge is this property has about 1000 easements on it so it's very limited in its use. He said that is why it has sat vacant for so long is because it's very challenging to get something in there but development is happening quickly in that area so as location is become prominent in that area it finally yields itself for commercial development. He said relative to the other commercial building that they just built, on the east side of Country Place drive the back side of that building, a lot of commercial buildings have kind of an ugly backside to them but that one is an all brick backside of that building and it doesn't windows that look into people's houses or anything like that so I felt they tried to be as conscientious as they could to create a commercial building that had a residential style architecture to it and they used a high quality product; they used brick all the way around that building and tried to also protect the privacy of those folks by not putting windows out the back of that and the developer that did that building is the same developer proposing this project. He said the reality of it is that it was zoned commercial a long time ago and the demand is there for commercial property now with all of the development going on in that area.

The President said his only concern is not knowing what's going in there, not knowing the volume of traffic that close to the end of the street.

Jim Morley Jr. said the volume of the traffic is something that when we do our commercial drive permit we will have to work out with Mr. Howard because that will be part of it. He said most likely it's a low traffic generator but by all means that's something that we'll have to work with the county engineer on because we need his approval to put the entrance in.

Mrs. Rector said and if doesn't give the approval they are not going to build anything there, even if the plat is recorded.

Bill Byers asked how far off of SR 66 will that drive be.

Jim Morley Jr. said from the edge of pavement it may be about 100 feet of so.

Mrs. Rector said from the pavement.

Jim Morley Jr. said roughly, that's with my calibrated eyeball.

Bill Byers said the reason he asks that is because the state is increasing the length of their islands down at Bell Road it's already on the books that they are going to do that.

Mrs. Rector said that intersection has the most wrecks of any in Warrick County.

Jeff Willis said that's because people run the red lights; 70mph over the hill and run right through it.

Jim Morley Jr. said either way we will work with Mr. Howard to provide them with an acceptable commercial drive.

The President called for a motion.

Jeff Willis asked if it would be possible on Country Place to split lots 1 and 2 differently where the access could be closer to Rabbit Run Drive.

Jim Morley Jr. said no and the reason they line up across the street like that from the existing one is because the MPO standards won't let you offset drives, they don't want them staggered by 100 feet or 50 feet so that's why they line up, but with roughly 100 feet from the highway to that drive, typically you get about 20 feet per car and so you would have five cars sitting there waiting to turn out before there would ever be a problem. He said but he would also say that a majority of commercial users are on a different traffic pattern than a residential home and so when everybody is leaving Rabbit Run Subdivision typically that's not when people are leaving a commercial establishment. He said if anything it's reverse of that because if it's an office people are coming to work at that time, they are not leaving at that time. He said they don't anticipate any issues and when they met with Bobby he didn't bring anything up about that. He said when they put this together he never had a concern about any kind of access in or out of the project because he doesn't believe they are going to have high traffic generators here and in addition to that you have to be stacked about 4 or 5 cars deep waiting to turn out and have someone leaving the commercial facility at the same peak hour as the residential facility and as a general rule commercial facilities and residential homes have different peak traffic hours so you don't have everybody leaving their office at 7:30 in the morning.

Jeff Willis said he was more concerned with everybody leaving their offices at 5 or 5:15 in the evening so they are blocking County Place and somebody is trying to turn in.

Jim Morley Jr. said he does not anticipate that they'd have that much traffic coming out of these areas. He said again with all of the easements they are pretty limited on how big of a building can be built there. He said if the project is 5.67 acres a large chunk of that is covered in easements and retention lake so you may have 5.66 acres but it's not like a free field that you can build 5.66 acres of development; there's a lot of easements and lakes that encumber that ground and so the size of the building he does believe would ever generate that kind of traffic.

The President called for a motion.

Jeff Valiant questioned that the motion had to be conditioned on the Newburgh Sewer letter.

The President said correct.

Jeff Valiant made a motion to approve PP-17-05. Jeff Willis seconded the motion. Several opposed thus the President called for a roll call.

Bill Byers- Neigh; Guy Gentry- Yea; Bob Johnson- Neigh; Amanda Mosiman- Neigh; Jeff Valiant- Yea; Jeff Willis- Yea.

Mrs. Rector said we have to have four and it is three and three.

Attorney Doll said it remains on the docket and neither passes nor fails.

Jim Morley Jr. asked if the plat is in technical compliance, which it is, does it not have to be approved.

Mrs. Rector said it is supposed to.

Attorney Doll said no it doesn't have to if the Board doesn't vote for it. He said they have other issues apparently that cause them to doubt whether they feel it's the appropriate development for that property.

Mrs. Rector said well it is in technical conformity to the Subdivision Control Ordinance; I don't know why they are voting against. She said she thinks if they will read they probably have to make a findings if they deny one.

Bob Johnson said his situation is this is the first time he has seen the plat today. He said he's been through drainage and he's been through the Commissioners meeting and this is the first time he has seen this particular map and his concern is for the homeowners and what this is going to do to their property values whatever we stick in there and also the safety. He said he would like to do a little bit more research on this before he gives an approval on it.

Mrs. Rector asked if he wanted to make a motion to continue this to next month.

Bob Johnson said that would work for him.

Attorney Doll said you could table it until the next meeting. He said since it didn't get four votes it is still on the agenda.

The President asked if they needed a motion then if it's still on there.

Attorney Doll said there ought to be a motion to actually have it set on the docket for next month but the other question would be there was some conversation tonight about the entrance. He asked Mr. Morley if they have designed the commercial entrance for this yet.

Jim Morley Jr. said they have not filed a commercial drive permit with Bobby yet no.

Attorney Doll said but have you designed...

Jim Morley Jr. said we have a concept plan drawn.

Attorney Doll said since that was some of the conversation here about safety issues it might be better if we had some input from Bobby by the next monthly meeting to address that issue. He said he would leave that up to him whether he thinks that is appropriate or not but that might answer some of the safety concerns he heard debated tonight.

Jim Morley Jr. said Sherri you had made mention to a finding so does he receive any findings?

Mrs. Rector said she thinks he just made one.

Amanda Mosiman said her issue with it is just not...normally for what we see for commercial development in that area that's extremely limited in scope. She said we don't know what it is, it has all the easements, it's not necessarily the best project we've seen brought forth to this Board. She said she doesn't know if its best use for that; that's her issue with it.

Mrs. Rector said but it is already commercial so they could come in tomorrow and build a building.

Amanda Mosiman said she understands but she'll make the decision on what that building is when she sees it in front of her, that I'm just not going to fool with.

Mrs. Rector said she understands she is just saying they are not going to see the building come before them. She said if they come in tomorrow to get a building permit the Board will not see it.

Attorney Doll said but then it would be a single lot and that might look completely different than it does as three lots.

Mrs. Rector said well we could get a statement from Bobby and Jim couldn't you do a concept drawing and get something from Bobby about the engineering that he agrees with the location of the drawing?

Jim Morley Jr. said he saw all of this and didn't say anything but he can ask him for something.

Attorney Doll said but he didn't actually see the application for a commercial driveway for that location and that might be slightly different he doesn't know.

The President called for a motion to table PP-17-05.

Bob Johnson said he'll make a motion to table PP-17-05. Bill Byers, Guy Gentry, Jeff Valiant, and Jeff Willis approved. Amanda Mosiman opposed the motion. The vote was 5 to 1 therefor the motion was carried.

PC-R-17-03 Petition by Allan R. Holweger and Engelbrecht Development LLC by Allan R. Holweger, owner to rezone 4.05 acres. located 0' NW of the intersection formed by Park Place Drive and Peachwood Drive. Pt of Orchard View Condominiums PUD Sec. 1 recorded in Doc. No. 2008R-002832, pt. of parcel 3 in Engelbrecht Minor recorded in Doc. No. 2003R-014657; all recorded in the Warrick County Recorder's Office, Ohio Twp., from PUD consisting of "C-4" General Commercial and "C-4" General Commercial to PUD consisting of "R-2" Multiple Family District. Ohio twp. Complete legal on file. (*Advertised in The Standard March 30, 2017*)

The President stated that we are also considering primary plat of Orchard View Townhouses PUD Section 2 by the same.

PP-17-06 Orchard View Townhouses PUD Sec. 2 by Allan R. Holweger and Engelbrecht Development LLC by Allan R. Holweger, Owner. 4.04 acres located 0' NW of the intersection formed by Park Place Dr. and Peachwood Dr. Pt of Orchard View Condominiums PUD Sec. 1 recorded in Doc. No. 2008R-002832, pt of parcel 3 in Engelbrecht Minor recorded in Doc. No. 2003R-014657, All recorded in the Warrick County Recorder's Office. Ohio Twp. Complete legal on file. (*Advertised in The Standard March 30, 2017*)

Scott Buedel with Cash Waggner and Associates was present.

The President called for a staff report.

Mrs. Rector stated all of the return receipts were mailed together. She said we have all return receipts except for 2 from CJIA LLC and GNE LLC. She said we do have copies of the white pay receipts showing they were mailed in time and to the correct addresses on file in the Auditor's office. She said the comprehensive plan shows the area to be commercial and the existing land use is vacant. She said the property to the north is zoned Agricultural with single family dwellings; property to the west is zoned PUD/C-4 with condominiums; property to the south is zoned PUD/R-2 with townhomes; property to the east is zoned C-4 and is vacant. She said there is no flood plain and the access is off of Park Place Drive. She said the PUD rezoning has been filed in conjunction with a primary plat which she will go into now.

Mrs. Rector stated this is townhomes similar to the ones they have already approved in the past. She said it is the same thing with return receipts on the primary plat. She said it is a proposed 23 lots in this. She added they are not condominiums they are townhomes where the ground will be sold with them. She said the Commissioners approved the street plans. She said the interior streets are private and they will have to file for commercial driveways for the entrances coming off the county road. She said the Drainage Board approved the drainage plans today. She said Newburgh Sewer has capacity and Chandler has capacity for water. She said it is a 23 lot planned unit development for townhomes. She said are asking for a waiver from the requirements of sidewalks. She said they have submitted a letter stating they "request that the sidewalks be waived for Orchard View Townhouses PUD section 2 along both side of the internal roads Clair Court, Micah Drive, and Maelyn Court. The internal layout of this planned unit development is similar to other projects, where sidewalks were waived to provide more green space between the front of the buildings and the road and also because cars parked in the

driveways would likely block the sidewalk.” She said of course they cant file and record the final plat if this is approved until the rezoning is approved by the Commissioners at next months meeting. She said we also have conditions that Engelbrecht Place Section 2 Phase IV must be recorded along with the street acceptance for Park Place Drive in order for this property to have access and they are aware of that. She said the easements requiring vacations must be done prior to the recording of the secondary plat. She said other than that it is in technical conformity.

Scott Buedel just to follow up with what Sherri said this is for the most part a continuation of the townhomes condominiums that are already in place to the west and south of this property. He said this will go all the way up Park Place on the west side and basically finish off that side that’s potentially zoned commercial right now, make it residential and complete that area as residential. He said everything on the east side of Park Place is still open for, that’s the other plat to be recorded, it’s still open for commercial in the future but the road that Sherri mentioned that needs to be recorded; Park Place Drive and all the right-of-way associated with it is included in the adjoining plat to the east of this property and Jim Biggerstaff, Utilities Consulting is taking care of that plat and so we are waiting for all of that to be taken care of before that plat is finalized and the right-of-way is dedicated around the roadway that is already in place.

The President said he knows already doing mainly through there but it’s not platted up to the next one, Micah; you can’t reach that one yet; oh you’re Peachwood so you are south of Peachwood.

Attorney Doll said they are north of Peachwood.

The President said this is but he was talking about where they are building now. He asked for questions from the Board. Seeing none and being no remonstrators present he called for a motion.

Jeff Valiant made a motion to give a positive recommendation to the County Commissioners for PC-R-17-03. The motion was seconded by Bob Johnson and unanimously carried.

The President called for a motion for the primary plat.

Mrs. Rector said we have to have a motion for the waiver on the sidewalks first.

Amanda Mosiman made a motion to approve the waiver for the sidewalks on PP-17-06. Bill Byers seconded the motion and it was unanimously carried.

The President called for a motion for the plat contingent upon all of the restrictions Mrs. Rector had mentioned.

Jeff Valiant made a motion to approve PP-17-06. Bob Johnson seconded the motion and it was unanimously carried.

OTHER BUSINESS:

Pecan Mobile Home Park ~ Division of property

Attorney Doll said he has not been able to reach the property owners that live out of state. He said he met with the gentleman who brought this to us earlier this evening and he told him he was going to ask the Board to continue this to the May 8th hearing so he can continue to try to find out what's going on with the prior owner of this property.

Amanda Mosiman said per attorney council she makes a motion to table this to the May meeting. The motion was seconded by Bill Byers and unanimously carried.

Ruffian Lane- Continued from November 14, 2016. Gazebo in easement.

Mrs. Rector said the foundation from what she understands, we have pictures so they can see that Jason Baxter went out and took; she doesn't know anything about building but as you can see whatever those blocks are there and there is stuff coming up out of the ground and all that, that's still there. She said it is just the structure itself and also the Drainage Board voted today because they are not supposed to have any of this concrete back here that's in the legal drain and the guard rail they put up without permission from the Drainage Board; well the Drainage Board actually denied it, told them they could even it up with the rest of the driveways down through there but they went ahead and did what they wanted anyway so the Drainage Board ruled today to continue it for 2 weeks until Commissioner Saylor is back and I think they may be having Morrie proceed in court to get it all removed because he has talked to them twice, wrote them letters, and communicated with them and they haven't done anything. She said they have never gotten any permits from us; they came in the office, we told them they couldn't put it there and they went ahead and built it anyway but since it was in the legal drain we let the Drainage Board handle it because they can't have it in the legal drain period. She said she doesn't know what they consider but they are going to have to get the rest of this stuff out of there too. She said it's all really up to the Drainage Board now.

The President questioned if there was anything for them to do then.

Mrs. Rector said no I think we are done.

Jeff Willis asked if this was the place they wanted to put a car dealership in there.

Amanda Mosiman said there were all sorts of things that wanted to go in there.

The President said yes it's the old Zeidler property.

Mrs. Rector said it's the same owner. She said it's his sister she believes that runs this, the Town Market which is a nice place.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Being no other business the meeting adjourned at 6:48 p.m. with a motion from Bill Byers, seconded by Bob Johnson and unanimously carried.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director